

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

Group Art Unit: 2877 : PATENT APPLICATION

Examiner: L. Lauchman :

In re application of :

PATRICK J. TREADO, et al. : NEAR INFRARED CHEMICAL  
IMAGING MICROSCOPE

(Continuation of Serial No. 09/976,391  
filed October 12, 2001)

**DECLARATION PURSUANT TO 37 C.F.R. § 1.31**

We, Patrick J. Treado, Matthew Nelson, and Scott Keltzer, declare as follows:

1. We are co-inventors of the subject patent application identified above and co-inventors of the subject matter described and claimed therein.

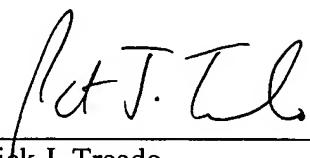
2. Prior to August 11, 2000, we had conceived of the invention of the Near Infrared Chemical Imaging Microscope as described and claimed in the present application and were diligent in filing the instant application and those applications from which it claims priority as evidenced by the following:

a. Prior to August 11, 2000, we had conceived of the idea of a Near Infrared Chemical Imaging Microscope as described and claimed in the application. Our conception of the invention was memorialized in laboratory records dated at least as early as April 14, 1999. A copy of records from that date is attached as Exhibit A. The laboratory notes were recorded by Juliana M. Ribar under the supervision of the undersigned, Matthew Nelson, and are a true and correct reflection of our conception of the invention.

b. On or before September, 1999, an experimental prototype was constructed and used by ChemImage Corp. as described and claimed in the present application.

We hereby declare that all statements made herein of our knowledge are true and that all statements made on information and belief are believed to be true; and further that these statements were made with the knowledge that willful false statements and the like so made are punishable by fine or imprisonment, or both, under Section 1001 of Title 18 of the United States Code and that such willful false statements may jeopardize the validity of any patents issuing from the present application.

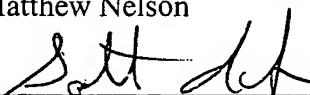
Date 1/14/04

  
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Patrick J. Treado

Date 1-12-04

  
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Matthew Nelson

Date 1126/04

  
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Scott Keltzer